

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Ellison Cullinan, as trustee for the heirs and
next-of-kin of Steven Cullinan,

Court File No.:
Judge:

Plaintiff,

**NOTICE OF AND PETITION
FOR REMOVAL**

v.

Michael Wojciehowski, Decoy Transport, LLC
and Menard, Inc.

Defendants.

TO: THE UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA

Defendant Menard, Inc., a Wisconsin corporation, respectfully states to the court
that:

1. Menard, Inc. is a Defendant in a civil action venued in district court in the State of Minnesota, County of Hennepin, Fourth Judicial District, entitled *James B. Huabenschild v. Menard, Inc.*, Court File No. 27-CV-18-18027.
2. Defendant Menard, Inc. received notice of this action when it was served with Plaintiff's Summons and Complaint on May 31, 2019.
3. Menard, Inc. is a Wisconsin corporation, with its principal place of business in the State of Wisconsin.
4. Upon information and belief, Ellison Cullinan, as trustee for the heirs and next-of-kin of Steven Cullinan, is a resident of the State of Minnesota.

5. Upon information and belief, Defendant Michael Wojciehowski, is a resident of the State of Minnesota.
6. Upon information and belief, Defendant Decoy Transport, LLC, is a Minnesota Limited Liability Company, with its principal place of business in the State of Minnesota.
7. The above-described state court action is a civil action that is properly removable to United States District Court by Defendant Menard, Inc.
8. The United States District Court has original jurisdiction over this matter under 28 U.S.C. § 1331 because a federal question exists.
9. The United States District Court for the District of Minnesota is the district embracing the place where this action is pending, and Defendant Menard, Inc. is not a corporation headquartered or with its principal place of business in the State of Minnesota. Therefore, the civil action described above may be removed to United States District Court pursuant to 28 USC § 1441(b) and 28 U.S.C. § 1446(a).
10. This Notice of Removal is being filed within 30 days after Menard, Inc. received notice that a federal question exists. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. section 1446(b).
11. Written notice of the filing of this Notice of and Petition for Removal has been served upon Plaintiff's and Co-Defendants' counsel.

12. Pursuant to 28 U.S.C. section 1446(a), a true and legible copy of all process, pleadings and orders served in the State Court Action as of this date are attached hereto as **Exhibit A**.

13. A Notice of Filing of Defendant's Notice of and Petition for Removal has been filed with the Clerk of Court, Hennepin County, Fourth Judicial District, State of Minnesota. (**Exhibit B**, attached, without exhibits.)

14. Undersigned counsel represents Menard, Inc. in this action and is authorized to state that Menard, Inc. expressly consents to the removal of the State Court Action to this Court.

WHEREFORE, Defendant requests that the above action pending against it in the State of Minnesota, County of Hennepin, Fourth Judicial District, be removed therefrom to the United States District Court and proceed in United States District Court as an action properly removed therein.

Dated: June 27, 2019

By: s/Steven E. Tomsche
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